

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN MIKE TAYLOR**, on February 2, 2001 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (R)
Sen. Dale Mahlum (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 299, 1/30/2001; SB 274,
1/30/2001; HB 194, 1/30/2001
Executive Action: HB 194

HEARING ON SB 299

Sponsor: SENATOR WILLIAM GLASER, SD 08, HUNTLEY

Proponents: Carl Schweitzer, Subcontractors Association of MT
Jim Wolf, Polar Electric
Lynn Perkins, Fire Suppression Systems
Dennis Iverson, Electrical Contractors Association
Trevin Pappas, Helena Insulation
Brian Patzer, Intermountain Heating

Opponents: Greg Oswood, MT Contractors Association
Tom Hattersley, MT Contractors Association
John Fitzpatrick, Touch America

Informational Witness: Nick Rotering, Dept of Transportation

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 1.2}

SENATOR WILLIAM GLASER, SD 08, HUNTLEY, stated the purpose of this bill is to define the relationship between people in a construction contract.

Proponents' Testimony:

Carl Schweitzer, Subcontractors Association of Montana, said that at this time the assignment of risk on construction contracts are very often contracted down to the lowest possible point, which is the subcontractors. He stated that this is unfair because often the subcontractors don't have control of the situation or the timing, but they are asked to assume the risk.

EXHIBIT (bus27a01) EXHIBIT (bus27a02)

Jim Wolf, Polar Electric, said he is a subcontractor to many generals in town. He said the subcontractors get the liability and the contractors get the benefits.

Lynn Perkins, Fire Suppression Systems, showed the committee an example of a contract he was asked to sign. He pointed out that it showed that as a subcontractor he was responsible for everything. **EXHIBIT (bus27a03)**

Dennis Iverson, Electrical Contractors Association, said everyone should be responsible for their own actions, and not for someone else.

Trevin Pappas, Helena Insulation, said he supports the bill.

Brian Patzer, Intermountain Heating, said he supports the bill.

Opponents' Testimony:

Greg Oswood, MT Contractors Association, said project owners almost universally require the contractors to be indemnified against bodily injury and property damage arising out of the performance of the prime contractor. The prime contractors include the same type of provisions in their subcontract agreements.

Tom Hattersley, MT Contractors Association, said he has been involved in litigation regarding accidents and incidents on construction sites. He stated the contracts are an attempt to predict risk and determine responsibility for that in advance.

John Fitzpatrick, Touch America, said it is important to take a look at the impact of this legislation on owners. He wondered if this bill would create more problems than it would solve.

Informational Witness:

Nick Rotering, Department of Transportation, said the present system has been working for the public sector. He went on to say they would like to work with the sponsor of this bill to protect the public.

Questions from Committee Members and Responses:

SENATOR MIKE SPRAGUE asked if the subcontractors in the private sector would affect state contracts as well.

Nick Rotering said yes, as it is written, it will affect public contracts.

SENATOR SPRAGUE asked about the potential for litigation. He thought a subcontractor should be responsible for problems that he has created, and only to that extent.

Tom Hattersly replied that he reads this bill as limiting the exposure of the subcontractor to circumstances where the person has himself been negligent.

CHAIRMAN MIKE TAYLOR clarified that the subcontractor would be responsible for his or her actions and if gross negligence, they would be responsible for that.

Tom Hattersly said they would not, according to this bill.

CHAIRMAN MIKE TAYLOR asked how to handle a situation where a subcontractor through no fault of their own was held partly liable for someone else mistakes.

Greg Oswood said this would be determined by whatever agreement was struck between the two parties.

SENATOR DON RYAN asked how to give the small contractors protection.

Tom Hattersly, said you have to separate performance issues, from the tort issues. He recommended that each company go to their insurance agent and show them the contract and then get insurance coverage for what they have entered into.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 12}

SENATOR WILLIAM GLASER, SD 08, HUNTLEY, said this is real simple. He said that logic needs to be applied. It is simple, "If you didn't do it, it isn't your fault."

HEARING ON SB 274

Sponsor: **SENATOR BOB KEENAN, SD 38, BIGFORK**

Proponents: **Susan Good, Allied Citizens for Healthcare Equity**
 Max Agather, Montana Retail Association
 Brad Griffin, Montana Retail Association
 Claudia Clifford, State Auditors Office

Opponents: **Tanya Ask, Blue Cross/Blue Shield**
 Roger McGlenn, Independent Insurance Agents
 Page Dringman, Health Insurance Association
 Keith Colbo, New West Health Care

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 15.7}

SENATOR BOB KEENAN, SD 38, BIGFORK, said this bill is about opening up information on insurance.

Proponents' Testimony:

Susan Good, Allied Citizens for Healthcare Equity, stated that people are now sometimes paying as much for their health insurance as they are paying for their rent. She said people should be able to get basic information from insurance companies such as what the insurance cost, and what they get for the money they pay. She said she also wanted to know about administrative costs.

Max Agather, Montana Retail Association, stated that the cost of health insurance is threatening the survival of many small businesses in this state. He said he thinks the rates are going to double in seven years, or more likely in five years.

Brad Griffin, Montana Retail Association, said that all this bill asks is that people can get a report on the losses of the company and the reserves of the company. He pointed out that Workers' Comp sends this information monthly, and he doesn't see why they are denied this information from the health insurance carrier. He stated this lack of information prevents them from being able to shop their group around for more competitive rates.

Claudia Clifford, State Auditors Office, said they support this bill as an attempt to help consumers and small businesses obtain more information about their coverage, especially when they want to shop around.

Opponents' Testimony:

Tanya Ask, Blue Cross/Blue Shield, opposed the bill because some of this information is not captured by entity. She said it is important from their perspective to not release individual, identifiable information.

Roger McGlenn, Independent Insurance Agents, said his concern with this bill is that insurance producers don't have access to some of this information, only the insurance carrier has access. He said they could assist clients in writing for this information, but they could not provide it themselves.

Page Dringman, Health Insurance Association, said her concern is that in some cases this would be administratively almost impossible to do, and she was also concerned about privacy information.

Keith Colbo, New West Health Care, opposes some of the provisions of the bill, while recognizing the merits of what the sponsor is suggesting. He said it would be very difficult for his company to comply with this bill.

Questions from Committee Members and Responses:

SENATOR VICKI COCCHIARELLA asked **Tanya Ask** what information they need when they take on a new group in order to determine how much they will pay.

Tanya Ask said they need to know what covererage they are looking at, and basic demographic information, as well as basic medical information.

SENATOR COCCHIARELLA asked if they ever ask to see the track record.

Tanya Ask replied that it depends on the size of the group, where they are coming from and what they are doing.

SENATOR COCCHIARELLA asked if this bill was designed to give groups the opportunity to go out and shop around for insurance coverage.

Max Agather said yes.

SENATOR COCCHIARELLA asked if this bill would help in getting information to determine if people wanted to be self insured.

Susan Good said yes.

CHAIRMAN MIKE TAYLOR asked why premiums were so high in Montana

Claudia Clifford said it was because we have less managed care.

Tanya Ask said we have a higher portion of uninsured in this state so there is a cost shift to the private paying market.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 27.5}

SENATOR BOB KEENAN, SD 38, BIGFORK, said he just wants to get a little competition into the marketplace.

HEARING ON HB 194

Sponsor: **REPRESENTATIVE SILVA BOOKOUT-REINICKE, HD 71, ALBERTON**

Proponents: **Kristi Blazer, MT Beer & Wine Wholesalers Assoc**
 Riley Johnson, Federation of Independent Business

Opponents: None

Opening Statement by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 2.2}

REPRESENTATIVE SILVA BOOKOUT-REINICKE, HD 71, ALBERTON, stated this bill basically matches Montana up to federal law. She stated that it says that outside sales people are not eligible for over-time pay. **EXHIBIT (bus27a04)**

Proponents' Testimony:

Kristi Blazer, MT Beer & Wine Wholesalers Association, said her organization supports this bill because it brings Montana law into conformity with federal law.

Riley Johnson, Federation of Independent Business, said they support this legislation as it gives uniformity throughout the country.

Opponents' Testimony: None

Questions from Committee Members and Responses:

Senator Ed Butcher asked if this would mean outside sales people could not come back later to claim over time.

EPRESENTATIVE BOOKOUT-REINICKE said yes.

Closing by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 10.4}

REPRESENTATIVE SILVA BOOKOUT-REINICKE, HD 71, ALBERTON, closed without comment.

EXECUTIVE ACTION ON HB 194

Motion/Vote: SEN. MAHLUM moved that HB 194 BE CONCURRED IN.
Motion carried unanimously.

ADJOURNMENT

Adjournment: 10:05 A.M.

SEN. MIKE TAYLOR, Chairman

KYANNE KELLY, Secretary

MT/KK

EXHIBIT (bus27aad)